

Diane H. Delekta

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Brian J. Delekta
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August 18, 2014

Nola Hicks
U.S. EPA
77 W. Jackson
Chicago IL 60603

RE: Robert Cherry, 201 N. Eighth Street, West Branch, Michigan

Dear Mrs. Hicks:

This office represents Robert Cherry, owner of the property located at 201 N. Eight Street, West Branch, Michigan. On July 1, 2014, Mr. Cherry received a letter from Lance Vicek of the U.S. EPA Agency, Region 5 concerning barrels located on Mr. Cherry's property in West Branch, Michigan, a copy of which is enclosed for your reference. Since that date, my client has spoken to Mr. Vicek and was told he could either allow the EPA to test and remove any hazardous waste on the property or Mr. Cherry could do the testing and clean up himself. Mr. Cherry has decided to do it himself. He did, however, ask that I notify you, as attorney for the EPA, of the status of this project so the EPA would know that he was taking steps to comply with your request.

Specifically, Mr. Cherry contacted Marine Pollution Control Corporation, which, according to its bid will "mobilize equipment and personnel to sample, characterize, profile, manifest and transport 40 waste drums for disposal. The waste will be transported to a licensed disposal facility." Mr. Cherry met at the property with a representative of the company who advised him that they test any material in the drums. Mr. Cherry will pay for those tests, then, if there is hazardous material, the company will remove and properly dispose of it. Mr. Cherry has been in contact with representatives of the EPA as this is progressing. Please feel free to contact me if you need additional information or want an update at a later time concerning the progress of this matter.

In addition, I am making a request under the Freedom of Information Act for all information related to this matter, including any and all complaints filed concerning this property including, but not limited to, any written complaint, any photos, and/or written notes concerning verbal communications that the property contains hazardous material.

Thank you for your assistance in this matter. Please feel free to contact me if you wish to discuss this matter.

Sincerely

A handwritten signature in black ink, appearing to read "Diane Delekta". The signature is fluid and cursive, with the first name "Diane" written in a larger, more prominent script than the last name "Delekta".

Delekta & Delekta P.C.



UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF

TO: Mr. Robert Cherry

DATE: 7/01/14

FROM: Lance Vleck

SUBJECT: Access to 201 N. Eighth Street, West Branch, MI

Dear Sir,

Per our telephonic conversation on Monday June 30, 2014, I like to thank you for your time. I want to restate her in general what we discussed.

You are the owner of the property located at 201 N. 8th Street, West Branch, MI.

The State of Michigan has asked the EPA to investigate and determine if the barrels and other containers left at this facility may contain hazardous materials.

You related that that you had started to take action on removing the above and hired a contractor to start the process of removing the drums left at your facility by a previous owner. That the contractor had staged (placed the items in a line) the containers for removal from your property and that you had ran out of funds and had to stop before the removal process was completed. You further related that you purchased the property through a foreclosure sale, and that the previous owner of the facility was a firm called "SEMPCO" who went bankrupt and had left the drums on the property, and that you never started any operation there and the drums are not yours and that you had a document showing that the property had been evaluated for environmental issues and that you still planned to have the drums removed when you had the funds. Hopefully I captured the main items. If I did not or you want to expand on what I said above, please do so in a separate letter, and enclose it in the second return to me envelope enclosed along with the information you want me to address about potential contamination to a property of yours by another.

I have enclosed a copy of a standard access agreement for you (and if you desire) and your attorneys review.

By signing this access agreement in no way means that you admit to any liability!

You can attach the completed form and send it to me in the enclosed return addressed envelope.

In the 2nd enclosed addressed envelope please send me the information you want followed up on and any additional information you can supply of the purchase of the property, restating formally that the drums were left there by the previous owner, any tests completed on the drums or the property, and anything else you feel we should know about. I want to ensure that you have a fair and ample time during this initial contact to state you position and provide information on what transpired by others on your property.

If you have any questions or concerns that I can answer (nothing legal as I am not an attorney, or the final decision maker) please feel free to call me at 312-886-4783, e-mail me at vlcek.lance@epa.gov.

If you have questions about how we go about testing or other technical questions please contact Mr. Ralph Dollhopf at (231) 301-0559. dollhopf.ralph@epa.gov. He will be the one entering the property to test the barrels.

If you or your attorney have any legal related questions, please contact Ms. Nola Hicks at (312) 886-7949

Again thank you for your time and patience, and if there is anything I can assist you on, please do not hesitate to contact me, and if I cannot answer your question, I will find you the person who can assist you.

Sincerely,

A handwritten signature in black ink, appearing to read "Lance Vicek". The signature is fluid and cursive, with the first name "Lance" being more prominent than the last name "Vicek".

Lance Vicek

Attachment A/S



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Name (please print): _____

Email: _____

Address of property 201 N. 8TH STREET
WEST BRANCH, MI 48661

Home Phone # _____

Cell Phone # _____

I consent to officers, employees, contractors, and authorized representatives of the United States Environmental Protection Agency (U.S. EPA) entering and having continued access to this property for the following purposes:

- Containing hazardous materials present at the property;
- Conducting sampling and monitoring activities;
- Preparing for and disposing of hazardous materials;
- Performing other actions to investigate contamination on the property that U.S. EPA may determine to be necessary; and
- Taking any response action to address any release or threatened release of a hazardous substance, pollutant or contaminant which U.S. EPA determines may pose an imminent and substantial endangerment to the public health or environment.

I realize that these actions taken by U.S. EPA are undertaken pursuant to its response and enforcement responsibilities under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 et seq.

This written permission is given by me voluntarily, on behalf of myself and all other co-owners of this property, with knowledge of my right to refuse and without threats or promises of any kind.

Date

Signature